

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRL. REVISION No.4774 OF 2016
DATE OF DECISION : 16th AUGUST, 2017

Manjot Singh

.... Petitioner

Versus

State of Punjab & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Preetinder S. Ahluwalia, Advocate for the petitioner.
 Ms. Samina Dhir, D.A.G. Punjab.

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A. B. CHAUDHARI, J. (ORAL)

This is a petition directed against the order dated 21.11.2016 passed by learned Additional Sessions Judge, Hoshiarpur declining application under Section 311 Cr.P.C. to summon the witness PW-11 ASI Gurkirpal Singh the investigating officer for re-examination.

Heard learned counsel for the rival parties.

The witness was cross-examined on 12.09.2016 and was discharged. The application in question was filed after two months thereof. It clearly appears that the concerned public prosecutor did not want re-examination of the investigating officer on the points since he took somersault as the public prosecutor must have remained absent from the Court. He only got up and filed the application in question after two months.

The concerned public prosecutor is directed to file explanation for this lapse on his part.

The trial Court in para 6 of its order has recorded finding that the delay in filing should not be disentitle the prosecution for seeking examination/re-examination of the witness. That being so, in my opinion, the delay should not have been urged as a reason. Perusal of the cross-examination clearly shows that PW-11- ASI Gurkirpal Singh taken somersault. The investigating officer being a police officer cannot be allowed to evade the test of cross-examination if he had decided to work against the interest of the State in a criminal offence.

In that view of the matter, it would be essential to have the re-examination/cross-examination of PW-11- ASI Gurkirpal Singh IO in the interest of justice.

In the result, I make the following order:

ORDER

- (i) CRL. REVISION No.4774 OF 2016 is allowed.
- (ii) The application for recalling the witnesses PW-11- ASI Gurkirpal Singh IO is allowed.
- (iii) Impugned order dated 21.11.2016 passed by learned Additional Sessions Judge, Hoshiarpur is quashed and set aside.
- (iv) The witnesses be further examined and re-examined as the case may be.

Put up on 31.08.2017 for awaiting explanation of the public prosecutor as aforesaid.

16th AUGUST, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes</i>	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	<i>No</i>